

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Ryan Nalaschi

(b) County of Residence of First Listed Plaintiff Luzerne, PA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Brandon A. Swartz (T) 215.550.6553
Swartz Culleton PC
547 East Washington Avenue, Newtown, PA 18940

DEFENDANTS

Samsung Electronics America, Inc. and John Does 1-20

County of Residence of First Listed Defendant Bergen, NJ
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Kristi A. Buchholz (P) 215.627.6900
Wilson Elser Moskowitz Edelman & Dicker, LLP
2001 Market Street, Suite 3100, Philadelphia, PA 19103

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(a), 28 U.S.C. § 1441(b)

Brief description of cause:

Diversity of Citizenship, Removal of Civil Actions

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

02/04/2021

/s/Kristi A. Buchholz

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

RYAN NALASCHI

CIVIL ACTION

v.

SAMSUNG ELECTRONICS AMERICA, INC. and JOHN
DOES 1-20, FICTITIOUS DEFENDANT(S)

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (✓)

February 4, 2021

Date

Kristi A. Buchholz

Attorney-at-law

Samsung Electronics America, Inc.

Attorney for

(215) 627-6900

Telephone

(215) 627-2665

FAX Number

kristi.buchholz@wilsonelser.com

E-Mail Address

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 69 East Grove Street, Edwardsville, PA 18704

Address of Defendant: 850 Challenger Road, Ridgefield Park, NJ 07660

Place of Accident, Incident or Transaction: Unknown

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 02/04/2021 /s/Kristi A. Buchholz 92468
Attorney-at-Law / Pro Se Plaintiff *Attorney I.D. # (if applicable)*

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
☐ 2. FELA
☐ 3. Jones Act-Personal Injury
☐ 4. Antitrust
☐ 5. Patent
☐ 6. Labor-Management Relations
☐ 7. Civil Rights
☐ 8. Habeas Corpus
☐ 9. Securities Act(s) Cases
☐ 10. Social Security Review Cases
☐ 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
☐ 2. Airplane Personal Injury
☐ 3. Assault, Defamation
☐ 4. Marine Personal Injury
☐ 5. Motor Vehicle Personal Injury
☐ 6. Other Personal Injury (Please specify): _____
☒ 7. Products Liability
☐ 8. Products Liability – Asbestos
☐ 9. All other Diversity Cases
(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, _____, counsel of record or pro se plaintiff, do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: _____ Sign here if applicable _____
Attorney-at-Law / Pro Se Plaintiff *Attorney I.D. # (if applicable)*

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RYAN NALASCHI

Plaintiff

v.

SAMSUNG ELECTRONICS AMERICA, INC. and
JOHN DOES 1-20, FICTITIOUS DEFENDANT(S)

Defendant

CIVIL ACTION

NO.: _____

JURY TRIAL DEMANDED

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Samsung Electronics America, Inc. (hereinafter “SEA”), by and through its attorneys, on this date hereby timely files this Notice of Removal of the above-captioned civil action from the Court of Common Pleas of Philadelphia County, to the United States District Court for the Eastern District of Pennsylvania, together with all process, pleadings, and orders, as required by 28 U.S.C. § 1446(a), copies of which are attached hereto and made part hereof, and in support of this Notice, respectfully avers as follows:

PRELIMINARY STATEMENT

1. This action was signed on December 15, 2020 and commenced on or about December 15, 2020, by Plaintiff, Ryan Nalaschi (hereinafter “Plaintiff”), in the Court of Common Pleas of Philadelphia County, by the filing of a Complaint in Civil Action, Docket No.: 201200813, against SEA (the “State Court Action”).¹

¹ SEA specifically reserves the right to move to compel arbitration to pursuant to the arbitration agreement contained in the Terms & Conditions that accompanied Plaintiff’s J7 device.

2. A true and correct copy of the Plaintiff's Complaint in Civil Action, dated December 15, 2020 (the "Complaint"), is attached hereto as Exhibit "A".

3. SEA was served with the Complaint on January 5, 2021. Accordingly, this Notice of Removal is timely under 28 U.S.C. § 1446(b).

4. No pleadings, process or orders other than those referenced above have been served on SEA in the State Court Action, and therefore, no other process, pleadings or orders are attached to this Notice in compliance with 28 U.S.C. § 1446(a).

5. As explained more fully below, this is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332(a), and which may be removed to this Court by SEA pursuant to the provisions of 28 U.S.C. § 1441(b) in that it is a civil action between citizens of different states with an amount in controversy exceeding the sum of \$75,000.00, exclusive of costs and interest, and the removal is timely.

DIVERSITY OF CITIZENSHIP

6. Plaintiff alleges in his Complaint that he is a citizen of Pennsylvania and the caption indicates that he resides at 69 E. Grove Street, Edwardsville, Pennsylvania 18704. (See Ex. A at ¶1.)

7. SEA is a corporation organized under the laws of New York and has its principal place of business in Ridgefield Park, New Jersey.

8. Complete diversity of citizenship therefore exists between the parties for purposes of diversity jurisdiction under 28 U.S.C. § 1332(a).

AMOUNT IN CONTROVERSY

9. This matter involves product liability claims arising from an alleged combustion of a Samsung Galaxy J7 Refine smartphone, Model No. SM-J737P, while Plaintiff was allegedly holding it against his ear and speaking during a telephone call. Plaintiff further alleges that as a result of this incident, he sustained various severe and permanent bodily injuries and losses. (See Ex. A.)

10. Plaintiff alleges damages “in excess of \$50,000.00.”² Id.

11. Plaintiff alleges that his damages include: “severe and permanent injuries, including but not limited to, a laceration on the right ear requiring stitches, headaches, tinnitus, deafness, and further unspecified right ear damage, as well as aches, pains, mental anxiety and anguish, and a severe shock to his entire nervous system”, future pain and suffering, future medical expenses, future loss of earnings and/or earning power, future expenses to treat and cure injuries, “injuries resulting in the serious and/or permanent loss of use of a bodily function, dismemberment, and/or scarring”, “loss of the enjoyment of his usual duties, avocations, life's pleasures and activities, and the shortening of his life expectancy” and “great and unremitting physical pain, suffering, and mental anguish, all of which may continue in the future” Id. at ¶¶ 21-28.

For these reasons, though SEA denies liability, SEA respectfully submits that the amount in controversy exceeds \$75,000, exclusive of costs and interest, for purposes of this Court’s diversity jurisdiction under 28 U.S.C. § 1332(a), and therefore, this action is properly removable pursuant to 28 U.S.C. § 1441.

² Phila.Civ.R. 1301 establishes the jurisdictional limit for compulsory arbitration at \$50,000 or less.

VENUE

12. Pursuant to provisions of Sections 1441 and 1446 of Title 28 of the United States Code, SEA seeks removal of this action to the United States District Court for the Eastern District of Pennsylvania, the judicial district in which the action is pending.

PROCESS

13. This Notice of Removal is being filed without prejudice to SEA's objections and defenses to Plaintiff's purported claims, including but not limited to SEA's right to compel arbitration of Plaintiff's claims pursuant to the arbitration agreement that accompanied Plaintiff's J7 device.

14. Written notice of the removal of this action will be promptly served on all adverse parties, and a copy will be filed with the Clerk of Judicial Records in the Court of Common Pleas of Pennsylvania of Philadelphia County in accordance with the provisions of 28 U.S.C. § 1446(d).

15. SEA respectfully submits that there is an actual controversy between citizens of different States, and that, based on the allegations in Plaintiff's Complaint, the amount in controversy exceeds the jurisdictional minimum.

16. Thus, as 28 U.S.C. § 1332(a) confers federal subject matter jurisdiction over this action, removal to this Court is proper pursuant to 28 U.S.C. § 1441.

WHEREFORE, Defendant SEA respectfully requests this action pending in the Court of Common Pleas of Pennsylvania of Philadelphia County be removed to the United States District Court for the Eastern District of Pennsylvania, together with such other and further relief as this Court may deem just, proper and equitable.

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

Dated: February 4, 2021

/s/Kristi A. Buchholz

Kristi A. Buchholz, Esquire

PA ID No. 92468

Two Commerce Square

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Philadelphia, PA 19103

kristi.buchholz@wilsonelser.com

Attorney for Defendant Samsung

Electronics America, Inc.